

# Snell & Wilmer

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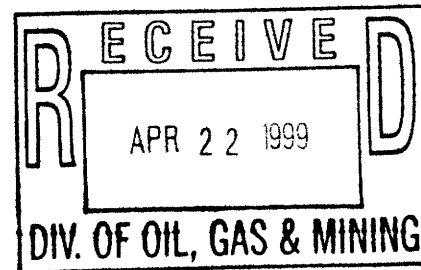
IRVINE, CALIFORNIA

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April 21, 1999

*Via Facsimile & U. S. Mail*

Ms. Mary Ann Wright  
Utah Division of Oil, Gas & Mining  
1594 West North Temple, Suite 1210  
Salt Lake City, Utah 84114-5801



**RE: Horizon Mining Permit No. ACT/007/020 - Division Order, February 25, 1999, and Notice of Violation N99-26-1-1**

Dear Mary Ann:

On behalf of Horizon Coal, LLC ("Horizon"), we respectfully request that the Division of Oil, Gas & Mining ("Division") vacate Notice of Violation No. N99-26-1-1 ("NOV") or grant an extension of time in which to abate the NOV and comply with the informal order dated February 25, 1999 ("Division Order"). On April 7, 1999 the Division precipitously issued the NOV to enforce paragraphs 1, 2 and 4 of the Division Order despite Horizon's pending hearing on this matter before the Board of Oil, Gas & Mining ("Board"). By Order dated April 15, 1999 (the "Board Order"), the Board granted Horizon's petition for temporary relief from complying with paragraphs 1, 2 and 4 of the Division Order until the Board decides this matter. The NOV relates to the same three provisions of the Division Order suspended by the Board. Therefore, there is no basis for enforcement of the NOV pending Board review of the Division Order. Horizon respectfully requests that the Division either vacate the NOV or grant Horizon an extension of time to abate the NOV consistent with Horizon's due process rights under the Board Order. At a minimum, the time for abatement of the NOV must be extended until the Board hears this matter on May 26, 1999 and has issued a decision. This request for extension of time is consistent with the Board Order and R645-400-327.200 which allows the Division to grant an extension beyond 90 days where an order precludes abatement.

In addition, Horizon requests an extension of time in which to submit plans in response to paragraph 3 of the Division Order until sixty days following the Board's decision in this matter. The Division Order currently requires Horizon to submit revised plans regarding coal waste storage by the end of April, 1999. The nature of the coal conveyance system, coal mine waste and snow storage areas may change dramatically depending upon the ruling of the Board following the May 26<sup>th</sup> hearing. Therefore, an extension of the time to comply with paragraph 3 of the Division Order should be granted.

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On Wednesday, April 14, 1999, Horizon requested an informal hearing on the NOV to address these issues with the Division. However, a hearing has yet to be scheduled and the timetable for action under the Division Order and the NOV requires the Division to decide this issue prior to April 31, 1999.

We appreciate your assistance in this matter.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Denise A. Dragoo". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Denise A. Dragoo

DAD:jmc:79162

cc: Daniel Moquin, Esq.  
Vicky Bailey (DOGM)  
Larry Jones  
Mark Wayment